IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.2883 OF 2006

Moh. Hussain Allauddin & Ors. .... Petitioners
Vs.
Ahmed R. Haji Ahmed & Ors. .... Respondents

Shri Vijay Patil for the Petitioners.
Shri Surel Shah for the Respondent Nos.1 & 2.
Shri S.M. Sabrad for the Respondent Nos.6 & 9.
Shri R.D. Suryawanshi for the Respondent No.10.
Shri A.H. Palekar, AGP, for the Respondent Nos.11 and 12.
None for the Respondent Nos.3 to 5, 7 & 8, though served.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: OCTOBER 04, 2006

P.C:

Heard. The petitioners challenge the order dated 28-3-2006 whereby it is the contention of the petitioners that a secondary evidence is allowed to be placed on record without considering whether the party is entitled to lead such secondary evidence or not. Undisputedly, the petitioners would be entitled to challenge the impugned order along with the final order in case the final order happens to be adverse to the petitioners. The impugned order, in fact, is an order in the proceedings before the concerned authority merely to assist the authority to arrive at the proper conclusion in relation to the main grievance of the parties in the proceedings. In such circumstances,

question of interfering in the impugned order at this stage does not arise at all. The petitioners would be entitled to challenge the impugned order along with the final order if the final order happens to be adverse to the petitioners. With these observations and the impugned order being not a case to be interfered in exercise of power under Article 227 of the Constitution of India, the petition is rejected with the above observations.

(R.M.S. Khandeparkar, J.)

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